

**CALIFORNIA CODE OF REGULATIONS
TITLE 3. FOOD AND AGRICULTURE
DIVISION 4. PLANT INDUSTRY
CHAPTER 2. FIELD CROPS
SUBCHAPTER 2. COMMERCIAL FEED
ARTICLE 11. INSPECTION TAX AND PLANT LICENSES**

INITIAL STATEMENT OF REASONS

Current funding for the California Department of Food and Agriculture's (CDFA) Feed Inspection Program is drawn from both license fees and the inspection tonnage tax. The consolidation of the feed industry has created a discrepancy between the revenues raised from the licensing fees and the tonnage tax. The increase in the license fee is an attempt to remedy the disproportionate fiscal responsibility and share the cost of the Feed Inspection Program by the commercial feed licensees, while upholding the legislative intent of the program.

Food and Agricultural Code (FAC) Section §15051(a) requires that any person who manufactures, distributes, sells, or stores commercial feed shall obtain a license from the CDFA. Section §2571(a) of the California Code of Regulations (CCR) exempts any person who is engaged in retail sales of feed from the licensing requirement.

FAC Section §15053(a) gives CDFA's secretary the authority to set the specific commercial feed license fee between one hundred dollars (\$100) and six hundred dollars (\$600) upon recommendation of the Feed Inspection Advisory Board.

FAC Section §15053(b) declares that revenues generated from the license fees shall be used to replenish the feed inspection program reserves to a minimum of twenty five percent of the program expenditures, after which the Feed Inspection Advisory Board can recommend that the revenue shall be used to reduce the feed inspection tonnage tax.

On September 6, 2012, the Feed Inspection Advisory Board voted to recommend that the CDFA secretary set the annual commercial feed license fee at four hundred dollars (\$400). Therefore, the Department proposes to amend CCR Section §2751 (b), thereby setting the annual license fee at four hundred dollars (\$400), effective July 1, 2013.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

- Draft Meeting Minutes from the September 6, 2012 Feed Inspection Advisory Board Meeting

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The proposed regulatory action would cost each commercial feed licensee one hundred dollars (\$100) per year to maintain their license to manufacture and/or distribute feed in California. Currently, there are 1,685 commercial feed licensees; hence the impact to the entire feed industry will be approximately \$168,500. Likewise, the Department has determined that the proposed increase in the commercial license fee will not have any impact on a person that makes only retail sales of commercial feed, or a person who manufactures feed exclusively for feeding to his or her own animals as they are exempt from obtaining a commercial feed license. (FAC Section §15051(b)(c)).

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS.

The Department has initially determined that the proposed change in the regulation would result in very minimal costs to the industry as a whole. There are approximately 1,685 feed licensees, and the current annual license fee is set at three hundred dollars (\$300). The one hundred dollar (\$100) yearly increase in the annual fee will cost the industry an additional \$168,500. This increase would also ensure the program reserve does not drop below the required twenty five percent of program expenditures.

Additionally, no savings or increased costs to any state agency, no costs under "Part 7 (commencing with Section §17500) of Division 4" of the Government Code to local agencies or school districts requiring reimbursement, no other non-discretionary costs or savings imposed on local agencies, and no costs or savings in federal funding to the State will result from these proposed regulations.

The Department has also determined that these proposed regulations do not impose a mandate on local agencies or school districts.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

The Department considered leaving the license fee at the current annual rate of three hundred dollars (\$300). If the fee remained the same, the program reserve would not be maintained at twenty five percent as required. In addition to this, the increased funds are necessary to support program operations.

The program is funded through a tonnage tax and license fee. All firms pay a license fee; however, only a subset of these licensee's pay the tonnage tax. The Department considered solely raising the tonnage tax from the current rate of \$0.08 per ton to \$0.10 per ton. This would provide the program with the necessary funding, but would be a disproportionate increase to only one sector of the industry. Since the funding will be used to support the Feed program operations in their entirety, the recommendation of the FIAB, and the Department concurs, is to have a more modest increase of both sets of fees to ensure that the costs are dispersed among the entire industry thus ensuring the most

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equitable distribution as possible. As a result of this, the tonnage tax was raised from \$0.08 per ton to \$0.09 per ton effective January 1, 2013.

The Department has determined that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which these regulations are proposed, or would be effective as and less burdensome to affected private persons than the proposed regulations.